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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/631,103

07/31/2003

Anthony J. Hynes

PREC-3612

7750

5409

7590

07/03/2006

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

EXAMINER

BRINSON, PATRICK F

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 07/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,103

Applicant(s)

HYNES ET AL.

Examiner

Patrick F. Brinson

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-18, 20-23, 25, 26 and 31-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-33 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-18, 20-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 10-13, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3,990,444 to **Vial**.

The patent to **Vial** discloses a metering device including a material reservoir (2), metering element (12), operationally attached for engaging a compressible material line (22), thereby causing a selectable peristaltic effect upon a material in the compressible material line, as recited in claim 1. The device further includes a control system including an electronic timing device (23), unit (31) and motor (14), as recited in claim 2. The device includes a base (16) and the base is adapted so that the compressible material line is positioned between the base and the metering device. The base includes a depression (18) for engagement with the compressible material line. The metering device is a rotatable wheel, having an arcuate portion, as recited in claims 5 and 7. The compressible line communicates with material reservoir (2) at one end and with a dispensing needle at the other. As to the quantity of dispensed material being within 2% of the a desired quantity, **Vial** discloses an electronic eye

that is placed on the dropping chamber that gives a stopping signal to the motor for every drop which passes, and for this reason the system thus designed provides an accurate measurement of the total flow since the periodicity of the movement of expulsion of liquid is exactly that of one single drop per control impulse. The material reservoir does not disclose a coating material, however, providing a coating material would be considered intended use of the device, and it should be noted that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

2. Claims 1-3, 5, 7-13, 17, 18, 20, 21 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,493,706 to **Borsanyi**.

The patent to **Borsanyi** discloses a metering device including a material reservoir (14), metering element (28), operationally attached for engaging a compressible material line (12), thereby causing a selectable peristaltic effect upon a material in the compressible material line, as recited in claim 1. The device further includes a control system including a motor (24), as recited in claim 2 and a valve (16), as recited in claim 17. The device includes a base (16) and the base is adapted so that the compressible material line is positioned between the base and the metering device. The patent to **Borsanyi** discloses a metering device (10) that is operationally attached

for engaging a compressible material line (11). The metering element is cylindrical and is formed of a plurality of diameters, as recited in claims 8 and 9.

3. Claims 1, 6, 22, 23, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,869,457 to **Ewerlof**.

The patent to **Ewerlof** discloses a metering device (9) that is operationally attached for engaging a compressible material line (3). The metering device is both rotatable and slidable along the compressible material line, as recited in claims 6 and 22.

Allowable Subject Matter

4. Claims 31-33 are allowed.

Response to Amendment

5. Applicants argue that **Vial** does not disclose a material reservoir containing a coating material. It should be noted as mentioned above, the limitation of providing a coating material is considered intended use of the product, which is not germane to the invention. Structurally, **Vial** discloses the recited invention. **Vial** does not disclose a valve in connection with the material line, however, the patent to **Barsanyi** does disclose a valve in connection with the material line. **Ewerlof** discloses a metering device that is both translationally slidable and rotatable.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrick F. Brinson
Primary Examiner
Art Unit 3754

P. F. Brinson
June 26, 2006